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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

NO. 82-5920

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KEVIN MICHAEL SHEA,

Petitioner

V.

STATE OF LOUISIANA,

Respondent

SUPPLEMENTAL PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF LOUISIANA

FRANCES BAKER JACK
642 STONER AVENUE
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(318) 221-6294
ATTORNEY FOR PETITIONER

In December 1983, petitioner, proceeding in forma pauperis, filed a petition for writ of certiorari in this Honorable Court. The question presented therein is whether the rule reconfirmed in Arizona v. Edwards, 451 U.S. 477, 101 S.Ct. 1880, 68 L.Ed.2d 378 (1981), that the Fifth and Fourteenth Amendments require supression of statements made during custodial investigation after a defendant has invoked his right to counsel, applies to a case pending on direct appeal when Edwards was decided. The State of Louisiana responded to the petition on March 4, 1983. No further action has been taken on the matter, though undersigned counsel has learned from the Clerk's office that it is set for conference on March 30, 1984.

On February 29, 1984, the Court decided the case of Stolem v. Stumes, 52 LW 4307, in which the retroactivity of Edwards was at issue. The holding that Edwards would not be applied retroactively was limited to the facts of the case. Noting that "[a]t a minimum, nonretroactivity means that a decision is not to be applied in collateral review of final convictions" the Court then stated "[f]or purposes of this case, that is all we need decide about Edwards." 52 LW 4310. After discussing the various lines at which nonretroactivity has been drawn, the Court concluded that "[j]ust where the line should be drawn as to Edwards need not be decided today." 52 LW 4311.

Petitioner submits that his case presents the opportunity to draw that line. Whereas Solem's case was on appeal from a denial of a writ of habeas corpus when Edwards was decided, petitioner's case was on direct appeal following conviction. Whether the rule of Edwards applies to petitioner's case was not decided in Solem. The Court should grant petitioner's application and address the question that remains to be answered.

Respectfully submitted,

By: Frances Baker Jack

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CERTIFICATE

This is to certify that I have this day served upon opposing counsel the within and foregoing Supplement Petition for Writ of Certiorari to the Supreme Court of Louisiana, by mailing one copy thereof, postage prepaid, to Mr. William J. Guste, Jr., Attorney General of Louisiana, Supreme Court Building, 301 Loyola Avenue, New Orleans, Louisiana 70112; and Mr. Carey Schimpf, Assistant District Attorney, 501 Caddo Parish Courthouse, Shreveport, Louisiana 71101, this 27th day of March, 1984.

Frances Baker Jack
FRANCES BAKER JACK
Attorney for Petitioner